

UNITED STATES DISTRICT COURT

for the

District of Minnesota

United States of America

v.

Samuel Donell Murphy

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Case No: 00-cr-263(7) (MJD/JGL)

USM No: 09689-041

Date of Original Judgment:

08/01/2002

Date of Previous Amended Judgment:

07/17/2008

(Use Date of Last Amended Judgment if Any)

pro se

Defendant's Attorney

ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months is reduced to _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: 31

Amended Total Offense Level: 31

Criminal History Category: III

Criminal History Category: III

Previous Guideline Range: 135-168 months

Amended Guideline Range: 135-168 months

II. SENTENCE RELATIVE TO THE AMENDED GUIDELINE RANGE

☐ The reduced sentence is within the amended guideline range.

☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a substantial assistance departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.

☐ The reduced sentence is above the amended guideline range.

III. ADDITIONAL COMMENTS

Defendant has filed a letter requesting that the Court appoint counsel for him and that this counsel request that Murphy be resentenced pursuant to the new crack cocaine guidelines. Because Murphy's guideline range has not been reduced by the new amendment, the Court cannot resentence Murphy and appointment of counsel for Murphy is unnecessary. See U.S. v. Tolliver, 570 F.3d 1062, 1066-67 (8th Cir. 2009).

Except as otherwise provided, all provisions of the judgment dated _____ shall remain in effect.

IT IS SO ORDERED.

Order Date:

2-13-12



Judge's signature

Effective Date:

(if different from order date)

Michael J. Davis, Chief Judge, D. Minn.

Printed name and title